IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A 2017 RATING LIST APPEAL

Case No: CHG100965584

Sitting remotely using Microsoft Teams

Date: 11 June 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-Domestic Rating appeal; 2017 Rating list; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Offices and premises; Proposal seeking a lower £ p/m^2; Appeal dismissed.

Before:
Ms B Knight (Presiding Senior member)
D Hogg (Senior Member)

Between:

Battelle UK Limited **Appellant**

- and -

The Valuation Officer **Respondent**

Regarding:
29 Springfield Lyons Approach, Chelmsford Business Park, Springfield, Chelmsford CM2 5LB
(the 'subject property')

Appearances:
Mr P Emerick, of Ryan Property Tax Services UK Ltd, as Advocate for the Appellant
Mr M Clayton, of Ryan Property Tax Services UK Ltd, as Expert Witness for the Appellant
Mr L Stevens, as Advocate and Expert Witness for the Respondent

Hearing date: 2 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel made no change to the rateable value (RV) of the subject property which remained at £330,000 with effect from 1 April 2017.

Introduction and background

3. This decision and statement of reasons is not a contemporaneous or verbatim record of the proceedings.

4. The subject property is entered into the 2017 rating list with effect from 1 April 2017 as “Offices, laboratories and premises” with a rateable value of £330,000. A Challenge was submitted to the Valuation Officer in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 on the grounds that its RV was unreasonable and should be reduced to £284,000, based upon a revised unadopted rate of £119 per m^2. The Valuation Officer decided that the Challenge was not well-founded and, as a consequence, an appeal was submitted to the tribunal.

5. Mr Emerick appeared on behalf of the Appellant as an advocate. Mr Clayton (for the Appellant) appeared as an expert witness and Mr Stevens (for the Respondent) appeared in the dual roles of advocate and expert witness. Mr Clayton declared that he was representing the Appellant on a contingency fee basis. Mr Clayton and Mr Stevens acknowledged and accepted that when presenting evidence as expert witnesses, their duty was to the tribunal irrespective of whether their evidence supported their respective argument. Mindful of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT (LC), the panel accepted the expert witness evidence on this basis as the appeal was not considered to be complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions - general) of the Procedure Regulations and was allowable due to the Tribunal’s rules concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). It was therefore appropriate for the panel to consider the expert evidence and assess what weight, if any, to give it in the context of the issues before it.

Discussion

6. This was an appeal against an entry in the 2017 rating list and so the rental levels are taken as those passing at the antecedent valuation date (AVD) of 1 April 2015. This is in accordance with the Rating Lists (Valuation Date) (England) Order 2014. The material day (the date by which physical factors must be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992. The material day in respect of the subject property is 1 April 2017.

7. Paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 provides that the RV of a non-domestic hereditament, none of which consists of domestic property and none of which is exempt from local non-domestic rating, shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year based upon three assumptions. These assumptions are well known to the parties and so the panel did not consider it necessary to set them out in this decision notice.

8. The subject property's rent was agreed at £164,208 per annum with effect from 15 October 2012. The parties also agreed the cost of tenants improvements totalling £2,740,396. However, there was disagreement as to the percentage figure used for the amortisation of fit out cost. The respondent had applied a rate of 7%, whilst the Appellant considered the statutory decapitalisation rate of 4.4% to be appropriate.

9. The Appellant's contention was that the subject property had originally been constructed as a B1 light industrial building which had subsequently been adapted following 'tenant fit outs' which, as a result, now primarily contains laboratories (on the ground floor) and office accommodation (on the first floor). As such, it was not a purpose built property and so its RV should take into account the differences between an adapted property and a purpose built one. It was argued that applying an amortisation rate of 7% to the tenant's improvement costs over the fifteen year term of the lease to arrive at £452,580 per annum (£164,208 base rent + £288,372 amortised figure) using the area of 1989.36m^2 (ITMS) results in a base price of £221.50 per m^2. It was asserted that this would result in it being the most valuable office building in the whole of Chelmsford. Furthermore, other purpose built offices on the same estate were valued at significantly lower levels than the subject property. Thus the Appellant questioned, how could a converted industrial unit be more valuable that a purpose built office?

10. Although in *Bunyan (VO) v Acenden Limited* [2023] UKUT 17 (LC) it is stated that the statutory decapitalisation rate is not mandatory, paragraph 105 was referred to, in demonstrating that nothing prevents the Tribunal or the parties from adopting that rate if, based on the evidence available, it is considered appropriate to do so. As the subject property was the product of a conversion from one class (industrial) to another (office), the Appellant contended that the statutory decapitalisation rate of 4.4% was appropriate to arrive at £284,785 per annum (£164,208 + £210,577). This produced an RV of £284,000.

11. The Respondent argued that using the statutory decapitalisation rate of 4.4% was inappropriate because it would effectively amortise the tenants improvements over a significantly longer period which would not appear to be a figure the market would alight upon given the building itself will outlast the fitout.

12. In terms of the approach to valuation of the subject property, the panel concluded that it was not truly a conversion from an industrial use to an office use. The photographic evidence was found to show that the works undertaken very much exceed strip out works prior to a conversion with, it appeared, only the roof and metal framework remaining. This meant that it was akin to a new build which should be valued in accordance with the mode and category of its occupation at a rate for office accommodation. When applying the reality principle, the subject property was a fully fitted out office and laboratory, following a scheme of woks which cost almost £2.8million which must be valued accordingly.

13. In accordance with *Bunyan v Acenden*, for the prescribed decapitalisation rate to apply, the RV of the subject property must be being ascertained using the contractor's basis of valuation. However, this was not a contractors test valuation and, as such, the panel concluded that the statutory decapitalisation rate should not be applied. The panel did not consider the evidence to be compelling enough to justify a departure from the norm. The panel was not persuaded that 4.4% should be used, preferring the 2017 rating list amortisation/market rate of 7% which was provided within the 2017 practice note and was a consistent approach to offices. The panel also observed that a straight line calculation arrives at £346,901 (£164,208 base rent + £182,693). This was found to demonstrate that a RV of £330,000 was not unreasonable.

14. Furthermore, the panel was not persuaded by the Appellant's comparison with other office assessments in the locality. The tenant of the subject property had funded improvements to the tune of nearly £2.8 million which, it was understood, primarily related to the creation of the laboratory space thereby significantly improving its quality and specification which set it apart from the more standard office assessments.

Determination

15. In view of its findings the panel concluded that a RV of £330,000 with effect from 1 April 2017 was reasonable, and so it dismissed this appeal.

Right of further appeal

16. Any party who is aggrieved at the Tribunal's decision, and who appeared or was represented at the hearing, has a statutory right of further appeal to the Upper Tribunal (Lands Chamber) pursuant to Regulation 42 of the Tribunal Procedure Regulations. A party does not require permission to appeal from the Tribunal. Any appeal must be made directly to the Upper Tribunal (Lands Chamber) within **four weeks** of the date this decision and statement of reasons is issued.

17. Further information regarding this statutory right of further appeal, and the parties' other rights, is contained in the guidance booklet "*A guide to tribunal decisions"* available on the Tribunal's website at www.valuationtribunal.gov.uk/guidance-booklets/.

Ms B Knight, Presiding Senior Member
Mr D Hogg, Senior Member

Mr A Johnson
Clerk to the Tribunal

Date issued to the parties: 11 June 2025